

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE BANK OF AMERICA CORP.  
SECURITIES, DERIVATIVE, AND  
EMPLOYMENT RETIREMENT INCOME  
SECURITY ACT (ERISA) LITIGATION

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THIS DOCUMENT RELATES TO  
  
The Consolidated Securities Class Action

Master File No. 09 MDL 2058 (PKC)  
ECF CASE

**NOTICE OF MOTION  
FOR SUMMARY JUDGMENT**

Oral Argument Requested

PLEASE TAKE NOTICE THAT, upon the Declaration of Audra J. Soloway, dated June 3, 2012, and the exhibits thereto; the Local Rule 56.1 Statement of Undisputed Facts in Support of Their Motion for Summary Judgment, dated June 3, 2012; and the accompanying Memorandum of Law in Support of Their Motion for Summary Judgment, dated June 3, 2012; and all other papers herein; defendants Bank of America Corporation and Banc of America Securities LLC (together, “BofA”) will move this Court before the Honorable P. Kevin Castel, at a date and time determined by the Court, for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.1, granting BofA’s motion for summary judgment and dismissing the following claims asserted in the Consolidated Second Amended Class Action Complaint, filed October 22, 2010:

- (i) Claims under Section 14(a) of the Securities and Exchange Act of 1934 (“Exchange Act”), for lack of evidence of damages;
- (ii) Claims under Sections 10(b) and 14(a) of the Exchange Act, premised on alleged misrepresentations or omissions about Merrill Lynch & Co., Inc. (“Merrill”) employee bonuses, for lack of evidence of loss causation;

- (iii) Claims under Sections 11 and 12 of the Securities Act of 1933, premised on alleged misrepresentations or omissions about Merrill employee bonuses, on the basis that BofA has satisfied its burden of negating causation; and
- (iv) Claims under Sections 10(b) and 14(a) of the Exchange Act, to the extent those claims are premised on alleged corrective disclosures about Merrill's fourth quarter 2008 losses on January 12 and 13, 2009, for lack of evidence of loss causation.

Dated: New York, New York  
June 3, 2012

Respectfully submitted,

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